

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX

Petitioner

File No. 90376-001

v

Midwest Security Life Insurance Company
Respondent

Issued and entered
this 18th day of August 2008
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On June 13, 2008, XXXXX, (Petitioner) filed a request for external review with the Commissioner of the Office of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Commissioner notified Midwest Security Life Insurance Company of the external review and requested the information used in making its adverse determination. After a preliminary review of the material submitted, the Commissioner accepted the request for external review on June 20, 2008. Because the case involves medical issues, the Commissioner assigned it to an independent review organization (IRO) which provided its analysis on July 3, 2008.

II
FACTUAL BACKGROUND

The Petitioner's health care benefits are defined in the certificate of group insurance (the certificate) issued by Midwest. The Petitioner's physician ordered a series of laboratory tests

which were performed by XXXXX on September 10, 2007. Midwest denied coverage for all the tests other than the lipid profile and general health panel. Midwest concluded that the tests were not medically necessary and were “alternative medicine” which is excluded under the terms of the certificate.

The Petitioner appealed the denial through Midwest’s internal grievance process. Midwest maintained its denial and issued a final adverse determination on April 17, 2008.

III ISSUE

Was Midwest correct in denying coverage for the laboratory tests?

IV ANALYSIS

Petitioner’s Argument

On August 23, 2007, the Petitioner had an office visit with XXXXX, MD who diagnosed Petitioner with Hashimotos, hormone imbalance, hypothyroidism, auto immunity, fatigue, metabolic disorder, and vitamin and mineral deficiencies. Dr. XXXXX ordered the medical tests which are the subject of this appeal.

The Petitioner says in his request for external review that he went to Dr. XXXXX to determine if he had any deficiencies (vitamin or mineral) that might be contributing to his symptoms. He went to Dr. XXXXX in hopes of relieving these symptoms and identifying their causes, not because of any holistic approach he may practice.

The Petitioner says he believes that these procedures and tests were medically necessary and were not alternative medicine. Therefore, Midwest should provide coverage for all of the tests.

Respondent’s Argument

In its April 17, 2008 final adverse determination, Midwest stated:

A physician reviewer, who is an MD, reviewed your medical records. The physician reviewer determined that there was no indication for lab work

other than the lipid profile (80061) and general health panel (80050). Based on the provided documentation, the physician reviewer determined that all other lab charges were unnecessary and considered alternative medicine, which is a contractual limitation under your plan certificate.

Midwest says the certificate contains this exclusion for services that are considered to be alternative medicine or not medically necessary:

LIMITATIONS

The term "Covered Expenses" as used for this coverage shall be deemed not to include any of the charges which are described below:

* * *

- (2) Such charges which are Experimental, Investigational, Unproven or not Medically Necessary.

* * *

- (37) Charges for alternative and complimentary medical treatments. Treatments include but are not limited to: holistic medicine, ayurveda and ayurvedic nutrition, craniosacral therapy, yoga, homeopathy, movement therapy, naturopathy, tai chi chuan, visualization sessions and other programs with an objective to provide complete personal fulfillment or harmony, chelation (metallic ion therapy) except in the treatment of heavy metal poisoning, rolfing, reiki, reflexology, therapeutic touch, colon therapy, massage therapy, herbal therapy, vitamin therapy, and hypnotherapy.

Midwest argues that the lab tests were alternative medicine and not medically necessary. For those reasons, the tests are not eligible for coverage.

Commissioner's Analysis

In reviewing adverse determinations that involve medical issues, the Commissioner requests a review and recommendation from an IRO. The IRO reviewer assigned to this matter is board certified in internal medicine and has been in practice for more than 10 years. It is the opinion of the IRO reviewer that Midwest's denial of coverage for all lab tests other than the lipid profile and general health panels should be upheld.

The IRO reviewer observed from the record of the Petitioner's August 23, 2007 office visit that some lab tests (the lipid profile and general health panel) were appropriate. However,

it was the IRO reviewer's conclusion that the doctor's physical examination findings did not substantiate the need for the disputed tests. The IRO said that these tests would be considered to be alternative medicine.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner; in a decision to uphold or reverse an adverse determination the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO reviewer's analysis is based on extensive expertise and professional judgment and the Commissioner can discern no reason why the recommendation should be rejected in the present case.

The Commissioner accepts the findings of the IRO reviewer that the Petitioner's lab tests, with the exception of the lipid profile and general health panel, are alternative medicine that is excluded from coverage under the terms and conditions of the certificate.

V ORDER

The Commissioner upholds Midwest Security Life Insurance Company's August 12, 2007, final adverse determination.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.